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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,727	11/25/2003	Gary P. Raden	MS306094.01	5767

27195 7590 07/24/2008  
AMIN. TUROCY & CALVIN, LLP  
24TH FLOOR, NATIONAL CITY CENTER  
1900 EAST NINTH STREET  
CLEVELAND, OH 44114

EXAMINER
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JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
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2143

NOTIFICATION DATE	DELIVERY MODE
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07/24/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com  
hholmes@thepatentattorneys.com  
lpasterchek@thepatentattorneys.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,727	<b>Applicant(s)</b> RADEN ET AL.	
	<b>Examiner</b> JUDE J. JEAN GILLES	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>on 05/09/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This Office Action is in Reply to communication filed on 04/24/2008.

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 05/09/2008 is submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Response to Amendment***

2. Claim 37 has been amended. No new claim has been added. Claims 1-41 are pending. Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naik et al (Naik) US. Pub. No. 20060294238, in view of Beck et al (Beck) US Pub. No. 20050114494 A1.

Regarding claim 1, Naik discloses a system that facilitates networked system management (figs. 1 and 2), comprising:

a component that obtains aggregated system state data for at least one system component (par. 0035); an analysis component that processes at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state (0010, 0035, and 0056); and

a user interface that provides state related information based upon the state characteristic to a user; the user interface receives at least one user control parameter that facilitates improved utilization of the networked system(0010, 0035, and 0056).

However, Naik appears not to disclose the details of " the at least one characteristic employed to automatically limit a user's utilization of at least one aspect of the networked system

In an analogous art, Beck teaches a system that *"The system 410 uses the desired states expressed in the manifest component 408 to also perform task scheduling for automatic task management; role-based access to restrict access to program functions; monitoring to detect problems, diagnose root causes, take corrective actions, and notify the system administrator when intervention is necessary; and, central configuration to customize policy for the above and apply to many machines."*

(see Beck par. 0136). In an attempt to improve system's performance, facilitating task scheduling by using an automatic task management approach can be employed to automatically limit a user's utilization of network resources.

Given this feature, it would have been obvious for an ordinary skill in the art to have incorporated the technique offered by Beck within the system of Naik for the purpose of allowing "the monitoring rules engine handles the automatic scheduling of rules thereby removing this burden from the user and allowing the user to concentrate on performing other tasks" as expressed by Beck in par. 0009. By this rationale, claim 1 is rejected.

Regarding claims 2-41 the combination Naik-Beck discloses:

2. (Previously Presented) The system of claim 1, the state related information comprising a current state status relating to at least one of system usage states, system performance states, or system health states (see Naik; 0056, 0100, and 0103).

3. (Original) The system of claim 2, the current state status relating to an individual end-user of the networked system (see Naik; par. 0011).

4.(Original) The system of claim 2, the current state status indicating top "X" asset utilization of a particular networked system asset, where X represents a desired number of top asset users (see Naik; 0056 and 0059).

6.(Previously Presented) The system of claim 4, the particular networked system asset comprising at least one of memory usage, CPU utilization, hard disk space usage, random access memory (RAM) usage, or network communication bandwidth usage (see Naik; 0056).

7.(Original) The system of claim 4, the top asset users comprising running processes (see Beck; 0176).

8.(Original) The system of claim 4, the top asset users comprising end-users of the networked system ( Naik; 0064).

9.(Original) The system of claim 8, the particular networked system asset comprising Internet usage (Beck; 0176).

10. (Original) The system of claim 1, the state related information comprising, at least in part, administrative guidance information corresponding to the networked system (see Naik; 0056, 0100, and 0103).

11. (Previously Presented) The system of claim 1, the state related information comprising an historical state status relating to at least one of system usage states, system performance states, or system health states (see Naik; 0056, 0100, and 0103).

16. (Original) The system of claim 1, the user interface comprising an interactive user interface (Beck; 0154-0155).

17. (Original) The system of claim 16, the interactive user interface comprising a prior state reversion control user interface (Beck; 0154-0155).

18. (Original) The system of claim 16, the interactive user interface comprising a control user interface that controls a utilization aspect of the networked system (Beck; 0154-0155).

19. (Original) The system of claim 18, the control user interface comprising a system prioritization user interface that prioritizes usage of the utilization aspect of the networked system (see Naik; 0056, 0100, and 0103).

20. (Previously Presented) The system of claim 18, the utilization aspect of the networked system comprising at least one of Internet bandwidth usage, CPU usage, hard disk space usage, e-mail usage, fax usage, or printing usage (see Naik; 0056, 0100, and 0103).

21. (Previously Presented) A method for facilitating management of a networked system, comprising:

acquiring aggregated system state data for at least one system component; analyzing at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state (Naik; 0010, 0035, and 0056), the at least one characteristic employed to automatically limit a user's utilization of at least one aspect of the networked system (see Beck par. 0136);

providing state related information based upon the state characteristic to a user; and enabling a user to manipulate assets of the networked system to facilitate improved utilization of the networked system (Naik; 0010, 0035, and 0056). The same motivation and reason to combine used for the rejection of claim 1 are also valid for this claim.

22.(Original) The method of claim 21, further comprising:  
employing the state related information to optimally manage productivity of end-users of the networked system (Naik; 0010, 0035, and 0056).

23.(Original) The method of claim 21, further comprising:  
utilizing the state related information to provide control of a related characteristic of the networked system (Naik; 0010, 0035, and 0056).

24. (Previously Presented) The method of claim 23, the related characteristic of the networked system comprising at least one of state reporting management, process thread management, Internet use management, data storage management, memory use management, processing power use management, or load management.

25. (Previously Presented) The method of claim 23, the control comprising at least one of automatic control or manual control (Naik; 0010, 0035, and 0056; see also Beck; 0136).

26. (Original) The method of claim 21, the user comprising a computing device (see Naik; fig. 1 and 2).

27.(Original) The method of claim 21, further comprising:  
utilizing state related error data and the aggregated system state data to provide system update information to the user (Naik; 0010, 0035, and 0056).



28. (Original) The method of claim 27, further comprising:  
providing control to the user to initiate system updates provided in the system update information.

29. (Original) The method of claim 28, providing control including, at least in part, selecting, via user input, to automatically update at least one parameter of the networked system (Beck; 0136).

30. (Original) The method of claim 21, further comprising:  
utilizing state related error data and the aggregated system state data to reduce state monitoring information (Naik; 0010, 0035, and 0056).

31. (Original) The method of claim 30, the state related error data comprising at least one selected from the group consisting of software defects and hardware defects (Beck; par. 0136).

32. (Original) The method of claim 21, further comprising:  
receiving control parameters from a user to control state related parameters (Naik; 0010, 0035, and 0056).

33. (Previously Presented) The method of claim 21, further comprising:

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data mining the aggregated system state data to determine at least one of a diagnosis of at least one aspect of the networked system or a prognosis of at least one aspect of the networked system (Naik; 0010, 0035, and 0056).

34. (Original) The method of claim 21, further comprising:

controlling, via a user interface, the networked system based, at least in part, upon the aggregated system state data (Naik; 0010, 0035, and 0056).

35. (Original) The method of claim 21, further comprising:

providing system state related recommendations based, at least in part, upon the aggregated system state data (Naik; 0010, 0035, and 0056).

36. (Previously Presented) A system that facilitates networked system management, comprising:

means for obtaining aggregated system state data for at least one system component; means for processing at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state (Naik; 0010, 0035, and 0056) , the at least one characteristic employed to automatically limit a user's utilization of at least one aspect of the networked system; means for providing state related information based upon the state characteristic to a user; means for predicting a common mode failure of at least one piece of hardware common to one of more systems (see Beck par. 0136); and means for enabling a user to manipulate assets of the networked system to facilitate improved utilization of the

networked system (Naik; 0010, 0035, and 0056). The same motivation and reason to combine used for the rejection of claim 1 are also valid for this claim.

37. (Currently Amended) A data packet transmitted between two or more computer components that facilitates networked system monitoring, the data packet comprising, at least in part, information relating to monitoring of a networked system, the information including, at least in part, state related data based, at least in part, upon aggregated state data corresponding to at least one system component of the networked system (Naik; 0010, 0035, and 0056)., the aggregated state data employed to automatically limit a user's utilization of at least one aspect of the networked system (see Beck par. 0136). The same motivation and reason to combine used for the rejection of claim 1 are also valid for this claim.

38. (Previously Presented) A system employing at least one system of claim 1 that provides a unified information source of at least one of performance monitoring data for a plurality of networked systems, usage monitoring data for a plurality of networked systems, or health monitoring data for a plurality of networked systems (Naik; 0010, 0035, and 0056).

39. (Original) A computer readable medium having stored thereon computer executable components of the system of claim 1 (see Naik; fig. 1 and 2).

40. (Previously Presented) A device employing the method of claim 21 comprising at least one of a computer, a server, or a handheld electronic device (see Naik; fig. 1 and 2).

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41. (Previously Presented) A device employing the system of claim 1 comprising at least one of a computer, a server, or a handheld electronic device (see Naik; fig. 1 and 2).

### ***Conclusion***

4. ***This action is made Non-Final.*** Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

/Jude J Jean-Gilles/

Primary Examiner, Art Unit 2143

JJG

July 19, 2008

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